

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTEENTH REGION

Lincoln, Nebraska

AQUILA, INC. 1/

Employer

and

Case 17-RD-1713

ANNA JANKE

Petitioner

and

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS LOCAL 244, AFL-CIO 2/

Union

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. 3/
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 4/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act. 5/
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 6/

All regular full-time and part-time employees in the following classifications: Master Service Technician, Special Service Technician, Service Technician A, Service Technician B, Service Technician Trainee, Senior Meter Reader, Meter Reader/Utility Person, Master C&M Mechanic, Special C&M Mechanic, C&M Mechanic A, C&M Mechanic B, C&M Mechanic Trainee, Master Welder, Special Welder, Special Welder Foreman, Welder A, Welder B, Master Corrosion/Leak Detection Technician, Special Corrosion/Leak Detection Technician, Corrosion/Leak Detection Technician A, Corrosion/Leak Detection Technician B, Master Meter Regulator/Plant Technician, Special Meter Regulator/Plant Technician, Meter Regulator/Plant Technician A, Meter Regulator/Plant Technician B, Special Vehicle and Equipment Mechanic, Vehicle and Equipment Mechanic A, Vehicle and Equipment Mechanic B, Special Storekeeper, Storekeeper A, Storekeeper B, Senior Operations Clerk, Special Operations Clerk, Advanced Operations Clerk, Operations Clerk, Customer Service Center Associate Call Center and Customer Service Associate Support (Back Office). In the following locations: Adams, Arlington, Aurora, Battle Creek, Beatrice, Bee, Beemer, Bennett, Blair, Bradshaw, Clatonia, Cheney, Columbus, Cortland, Craig, Crete, David City, Dewitt, Dorchester, Eagle, Exeter, Fairmont, Firth, Friend, Garrison, Geneva, Grafton, Greenwood, Hallam, Hampton, Hickman, Holland, Humphrey, Lincoln, Lindsay, Madison, Meadow Grove, Milford, Mynard, Newman Grove, Nickerson, Norfolk, Oakland, Osceola, Palmyra, Panama, Pierce, Pilger, Plattsmouth, Plymouth, Rising City, Seward, Shelby, Stanton, Staplehurst, Tekamah, Tilden, Uehling, Ulysses, Walton, Waverly, West Point, Wilber, and York, but EXCLUDING confidential employees, guards, professional employees, and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees

engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 244, AFL-CIO

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **N.L.R.B. v. Wyman-Gordon Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, 2 copies of an election eligibility list, containing the names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned/Officer-in-Charge of the Subregion who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, 8600 Farley Street - Suite 100, Overland Park, Kansas 66212-4677 on or before **January 10, 2005**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **January 17, 2005**.

Dated January 3, 2005

at Overland Park, Kansas

/s/ D. Michael McConnell

Regional Director, Region 17

- 1/ The Employer's name appears as amended at the hearing.
- 2/ The Union's name appears as amended at the hearing.
- 3/ It appears from brief mention in the record and the post-hearing brief of the Employer that the parties disagree as to whether a manual or mail ballot election should be held in this case. The propriety of conducting the election manually or through use of mail ballots will be determined administratively, and will not be addressed in this Decision and Direction of Election.
- 4/ The Employer is a State of Delaware corporation that operates as a public utility from various facilities located in the State of Nebraska, the only facilities involved in this proceeding. During the last 12 months, a representative period, the Employer had gross annual revenues in excess of \$250,000. During this same period, the Employer purchased and received goods and services valued in excess of \$50,000 directly from sources located outside the State of Nebraska, and sold and shipped goods and services valued in excess of \$50,000 directly to customers located outside the State of Nebraska.
- 5/ Although the Employer and the Union have a collective-bargaining agreement covering the employees in the appropriate unit, the Employer, the Petitioner and the Union stipulated that that agreement is not a bar to the processing of the instant petition. The parties' stipulation appears to be based on the fact that the instant decertification petition was timely filed on October 29, 2004, within the 60 to 90 day open period prior to the December 31, 2004 expiration of the collective-bargaining agreement.
- 6/ After the close of the hearing, on December 29, 2004, representatives of the Employer, the Petitioner and the Union executed an Amended Stipulation which corrected minor errors to their original Stipulation and thereby stipulated to the appropriateness of the unit.